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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,904	07/05/2001	Tatsuo Fukui	109686	1427
25944	7590	10/31/2003	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			STOCK JR, GORDON J	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 10/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/897,904

Applicant(s)

FUKUI, TATSUO

Examiner

Gordon J Stock

Art Unit

2877

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED October 16, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): see 5 below.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 2, 5, 7, 9 and 10.Claim(s) rejected: 1, 3, 4 and 6.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Zander V. Smith
ZANDER V. SMITH
PRIMARY EXAMINER

Continuation of 5 does NOT place the application in condition for allowance because: In regards to applicant's Remarks filed October 16, 2003 pages 7-10, Examiner finds arguments dealing with the rejection of claims 1,2 and 8 under 35 U.S.C 102(b) over Takahiko (JP 08-115874) as persuasive. So the rejection of claims 1, 2, and 8 under 35 U.S.C. 102(b) is withdrawn.

In regards to the arguments concerning claim 2 and the rejection under 103(a) over Sugaya et al. (5,754,299), the Examiner finds the arguments persuasive. Subsequently, the rejection of claims 2 and 5 under U.S.C. 103(a) is withdrawn.

As for claim 1 with Sugaya, the arguments are not persuasive in regards to the field stop. As for the adjustment of the field stop in a plane perpendicular to an optical axis with a fixed field, Sugaya does not mention that the illumination field stop with a driving mechanism (Fig. 19, 117 and 118) is a variable aperture which implies fixedness of the field size. Also Sugaya does not mention the field stop moving parallel to the optical axis, a possible alternative adjustment performed by the driving mechanism. It would be unclear as to why a field stop would move parallel to the optical axis. Also col. 25 lines 64-67 and col. 26 lines 1-10 suggest similarities to the field and aperture stops. In addition, Figs. 1-2 and cols. 24-28 (specifically, col. 28, lines 1-6 and cols. 45-60) go over the determination of asymmetric and symmetric aberrations which comprise adjustments in the x-direction perpendicular to the optical axis; therefore, it would be obvious to one skilled in the art that the field stop is adjusted perpendicularly to the optical axis for aberration determination and corrections are performed through adjustments perpendicular to the optical axis. Subsequently, the rejection of claims 3, 4, and 6 under U.S.C. 103(a) remain as well as the objections to claims 7 and 9. Claim 10 also is objected to for depending from claim 7.